

**River Bend Town Council  
Regular Meeting Minutes  
May 16, 2024  
Town Hall  
7:00 p.m.**

Present Council Members: Mayor John Kirkland  
Lisa Benton  
Barbara Maurer  
Buddy Sheffield  
Jeff Weaver

Absent Council Members: Brian Leonard

Town Manager: Delane Jackson  
Police Chief: Sean Joll  
Finance Director: Mandy Gilbert  
Town Clerk: Kristie Nobles  
Town Attorney: David Baxter

Members of the Public Present: 8

**CALL TO ORDER**

Mayor Kirkland called the meeting to order at 7:00 p.m. on Thursday, May 16, 2024, at the River Bend Town Hall with a quorum present.

**RECOGNITION OF NEW RESIDENTS**

Maryann Taylor – 438 Gatewood – stated she has lived in River Bend for a year and is an active member of the Community Appearance Commission (CAC).

**VOTE – APPROVAL OF AGENDA**

Councilwoman Benton motioned to adopt the agenda as presented. The motion carried unanimously.

**PUBLIC COMMENT**

Don Fogle – 107 Anchorway – expressed gratitude to the Council and the Town Manager for working to get the walking path lit. He also expressed gratitude to the Parks and Recreation Advisory Board for sponsoring a successful board game night. He stated his concerns with the Town entering a contract with the Red Caboose Community Library. He stated that there are no performance measures within the contract and no specific expectations, such as how many hours will the library be open a day and how many days per week. He also stated that the contract states that the town is responsible for the maintenance on the building's equipment, such as the heating and air conditioner, electric, water and plumbing. He stated that the Council is committing the Town to be a landlord of a building that was unsatisfactory for the Town's staff to occupy.

**CONSENT AGENDA**

The Mayor presented the Council with the Consent Agenda. Councilman Sheffield moved to approve the Consent Agenda as presented. The motion carried unanimously. Within this motion, the following items were approved:

**A. Approve:**

*Minutes of the April 11, 2024, Work Session Meeting  
Minutes of the April 18, 2024, Regular Council Meeting  
Minutes of the April 30, 2024, Budget Meeting  
Minutes of the May 2, 2024, Budget Meeting  
Minutes of the May 7, 2024, Budget Meeting  
Minutes of the May 9, 2024, Budget Meeting*

## **TOWN MANAGER'S REPORT**

The Manager gave the following updates:

- Leaf and Limb collection is underway and there have been quite a number of residents not following the rules. He stated that the Town, as approved by the Council, will start issuing citations moving forward.
- The bid opening for the Wastewater Treatment Plant was today and the Town only received one bid and it was 18 million dollars, double the amount of the grant funding received.
- The FY24-25 Budget Public Hearing will be on June 13, 2024, at 7:00 p.m. during the Council work session. He stated that the Council would vote on the proposed budget on June 20, 2024.

At this time, in recognition of National Peace Officers Week, Mayor Kirkland presented the Police Chief with gift certificates for the entire Police department to express gratitude for their service to the community.

## **ADMINISTRATIVE REPORTS**

### **CAC – COUNCILWOMAN MAURER**

Councilwoman Maurer presented the following report.

The CAC met on May 15. The first order of business was a motion and vote to submit a proposal for a CAC Facebook to the Town Council. Motion passed unanimously. The page will be informational only, with an email address for questions and comments. The board submitted their proposal to the Council. It is almost identical to the one made last week by Parks & Recreation and passed by the Council. I will present their proposal at the conclusion of this report. The Beautification Award Program continued with awards this month to two next door neighbors, 312 and 314 Shoreline Drive. Congratulations to the winners and thank you to all the nominees. Nominations for the June award can be made from June 1-10. The CAC announced two Independence Day decoration workshops to take place on Thursday, June 20 and Saturday, June 22 from 10am to noon. If you like the Christmas globe workshops, then be sure to sign up to make Independence Day decorations. Reservations are necessary to hold a place. CAC will hold their second annual Independence Day Festive Award Program that publicly recognizes homes that exemplify the Fourth of July spirit. Nominations will open in mid-June. The next meeting is scheduled for July 17, 2024 at 4 pm in the Municipal Building. The meeting is open to everyone. There is one vacancy. This is an active, creative group. Please attend if you are interested. Guests and volunteers are always welcome. You don't have to be a board member to participate.

### **VOTE – CAC Social Media Request**

Councilwoman Maurer motioned to approve the CAC Social Media Request as presented. The motion carried unanimously.

### **FINANCE – COUNCILWOMAN MAURER FOR COUNCILMAN LEONARD**

Financial Report – Finance Director, Mandy Gilbert, presented to the Council the financial statement for the month of April. She stated the total of the Town's Cash and Investments as of April 30, 2024, were \$3,174,135 and Ad valorem tax collections for FY23-24 were \$979,179 and Vehicle Ad valorem tax collections were \$84,283.

### **VOTE – Amended and Restated Library Services Agreement**

Councilwoman Maurer motioned to approve the Amended and Restated Library Services Agreement as presented, with an effective date of June 1, 2024. The motion carried unanimously. (see attached)

### **VOTE – Library Space Agreement**

Councilwoman Maurer motioned to approve the Library Space Agreement as presented, with an effective date of June 1, 2024. The motion carried unanimously. (see attached)

### **PRESENTATION OF DRAFT FY24-25 BUDGET MESSAGE AND ORDINANCE**

The Manager provided the Council with a copy of the Draft Budget Message and Ordinance. He stated it would be released to the public next week.

### **ENVIRONMENT AND WATERWAYS – COUNCILMAN WEAVER FOR COUNCILMAN LEONARD**

Councilman Weaver gave the following report:

Chairman Ackiss opened the meeting at 7 PM, there was a quorum. There were no visitors. The corrected minutes from November 2023, February and April 2024 were approved. Councilman Leonard gave a council report and answered members questions. OLD BUSINESS: discussion about the status of the bulkhead inspections. Planning for a clean sweep event of the canals later this year. NEW BUSINESS : discussion about feeding creatures in the canals, more information will be published about what is legal and acceptable. Questions about were in River Bend are official bird sanctuaries areas. Discussion about providing fishing lines disposal containers at various locations in town, boat landing, fishing dock, kayak launch were some suggested areas. Volunteer Hours: 7 The next meeting will be on June 3<sup>rd</sup> 2024 at 7 PM in the small conference room in the municipal building. There is a vacancy on EWAB . The meeting adjourned at 7:42 PM.

### **PUBLIC SAFETY – COUNCILWOMAN BENTON**

Councilwoman Benton stated that Community Watch is in need of more volunteers and meets on June 19 at 7:00 p.m.

### **PARKS & RECREATION – COUNCILMAN WEAVER**

Councilman Weaver stated that Parks and Recreation hosted a successful board game night in May and a Father's Day event is scheduled in June 8.

### **RIVER BEND COMMUNITY ORGANIC GARDEN**

Councilman Weaver gave the following report:

Saturday workdays continue to be successful. More volunteers are also working during the week. The total number of volunteer hours for April 448, more than the previous three months combined. Total work hours for the year so far, 859. The plant sale was successful beyond expectation. It was well attended and some visitors who toured the garden have already started to volunteer. The garden has many parts. In addition to vegetables, there's an herb section, a bird and butterfly garden, a monarch habitat and bee hives. The next meeting is scheduled for June 3 at 1:30 pm in the Municipal building. Weekly workdays are scheduled on Saturdays starting at 8 am. Everyone is welcome to attend and participate in monthly garden volunteer meetings and in the garden.

### **MAYOR'S REPORT**

The Mayor presented the following report.

The members of Council and Staff are now working to develop the 2024-2025 budget. The Town Manager is charged with the preparation of a draft budget for presentation to the Council. The Council can either accept the draft or modify it before voting on its adoption. River Bend is fortunate to have Manager Jackson who has many years working through the budget preparation process. The "bottom line" of the process is that next fiscal year's projects and department expenditures are set and the tax rate to support the budget expenditures is also set. The tax rate to support the budget expenditures is also set by Council vote. Most residents are interested in the tax rate. I recognize that this is a concern for all citizens wherever they live. In my own case, moving from Connecticut to River Bend, taxes for the property in Connecticut are now more than

\$10,000 while the home here is the same size, but tax is \$ 3,500+/- and the level of service provided by local government is very similar in both states. The Manager, Staff and Council work hard to balance the town's needs and the cost of operations. The result will be a balanced budget that will meet the next fiscal year's operational demands. Thanks to all for understanding that the process has worked well in past years and will perform well in the coming fiscal year.

**CLOSED SESSION**

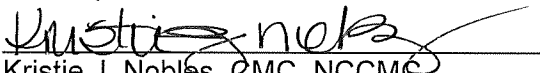
Councilwoman Benton moved to go into a Closed Session under NCSG §143-318.11(a)(3) to consult with our attorney. The Council entered Closed Session at 7:48 p.m.

**OPEN SESSION**

Councilman Sheffield moved to return to Open Session at 8:08 p.m. The motion carried unanimously.

**ADJOURNMENT/RECESS**

There being no further business, Councilman Sheffield moved to adjourn. The meeting adjourned at 8:08 p.m.

  
Kristie J. Nobles, EMC, NCCMC  
Town Clerk

NORTH CAROLINA  
CRAVEN COUNTY

**AMENDED AND RESTATED LIBRARY SERVICES AGREEMENT**

THIS **AMENDED AND RESTATED LIBRARY SERVICES AGREEMENT**, is made and entered into this <sup>12<sup>th</sup></sup> day of June, 2024 by and between **TOWN OF RIVER BEND** ("Town"); and the **RED CABOOSE COMMUNITY LIBRARY, LLC** ("Library") (hereinafter collectively "Parties").

**WITNESSETH :**

WHEREAS, on August 10, 2023, the Town and Library entered into an agreement for the Town to pay Library \$5,000 for the provision of general library services, as authorized by N.C. Gen. Stat. 153A-263; and,

WHEREAS, the Town now has space available in its former Public Works Building, located at 115 Wildwood Drive, River Bend, North Carolina, to house the Library's operations in furtherance of the Town and Library's agreement to render general library services; and

WHEREAS, the Town wishes to now lease space within its former Public Works Building to the Library in lieu of providing the Library with a financial payment, and Library now wishes to accept said space for its provision of general library services pursuant to the Parties prior agreement in lieu of accepting the Town's financial payment for the same.

NOW, THEREFORE, BE IT RESOLVED that for valuable consideration, the sufficiency of which is expressly acknowledged by the Parties, the Parties agree to the following amended and restated terms of the August 10, 2023, Library Services Agreement:

## ARTICLE 1

### Responsibilities of Library

During the term of this Agreement, and subject to the conditions and terms contained herein, the Library agrees:

**1.1** To provide all of those general library services it is currently engaged in, to the citizens and residents of the Town, at no cost, charge or expense to individual citizens and residents of the Town.

**1.2** It may solicit donations from its patrons, but shall at all times make clear that such donations are completely voluntary, and that they shall not inure to the benefit of the Town itself.

**1.3** Indemnify and hold the Town harmless against all expenses, liabilities and claims of every kind, including reasonable attorney's fees, incurred by the Town arising out of the Library's negligence or intentional acts in performing under this Agreement, as well as the negligence or intentional acts of the Library's employees, volunteers, agents, representatives and independent contractors.

**1.4** Execute a lease agreement with the Town for using a portion of the Town's former Public Works building, located at 115 Wildwood Drive, River Bend, North Carolina, for the provision of library services required under this Agreement. A copy of such a lease agreement is attached hereto as Exhibit 1.

## ARTICLE 2

### Responsibilities of Town

During the term of this Agreement, and subject to the conditions and terms contained herein, the Town agrees:

**2.1** To advertise the Library's activities on the Town's webpage, in a reasonable manner. Such reasonable manner shall be determined in the sole discretion of the Town Manager or his/her designee.

**2.2** To provide the Library with a portion of the Town's former Public Works building, located at 115 Wildwood Drive, River Bend, North Carolina, for the provision of library services required under this Agreement. A copy of such a lease agreement is attached hereto as Exhibit 1.

## ARTICLE 3

### Term

The initial term of this Agreement shall terminate on the 31th day of May, 2025. The term of this Agreement can be renewed for subsequent one-year terms upon consent of both Parties on the same terms provided in this Agreement. During the initial term or any subsequently renewed term of this Agreement, either party, with or without cause, may cancel this Agreement upon sixty (60) days' written notice to the other party. If either party gives notice of cancellation, said notice will not be considered a breach of this Agreement, and said notice will relieve the other party from any future performance under this Agreement.

## ARTICLE 4

### Independent Contractor

In the performance of services hereunder, the Library and its agents shall at all times act as an independent contractor, and not as an official Town department or as employees or agents of the Town. The Library and its agents shall not have any claim under this Agreement or otherwise against the Town for vacation pay, sick leave, retirement benefits, social security, worker's compensation, disability benefits, unemployment insurance benefits, or employee benefits of any other kind.

## ARTICLE 5

### Miscellaneous

**5.1 Entire Agreement; Modification:** This Agreement supersedes all prior agreements and constitutes the entire agreement between the Parties and may not be amended or modified except by a subsequent written agreement executed by both Parties.

**5.2 Severability:** If any of the provisions of this Agreement shall be held by a court of competent jurisdiction to be unconstitutional or unenforceable, the decision of such court shall not affect or impair any of the remaining provisions of this Agreement, and the Parties shall, to the extent they deem to be appropriate, take such actions as are necessary to correct any such unconstitutional or unenforceable provision. It is hereby declared to be the intent of the Parties to this Agreement that this Agreement would have been approved and executed had such an unconstitutional or unenforceable provision been excluded therefrom.

**5.3 Binding Effect:** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective legal representatives, successors, and assigns.

**5.4 Assignment:** Except as may otherwise be expressly provided herein, no party may assign any right, obligation, or liability arising hereunder without the other party's prior written consent. Any such assignment or attempted assignment shall be null and void.

**5.5 Headings & Duplicate Originals:** Headings in this Agreement are for convenience and reference only and shall not be used to interpret or construe its provisions.

**5.6 Duplicate Originals:** This Agreement shall be executed in duplicate originals, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

**5.7 Governing Law; Exclusive Venue:** This Agreement shall be governed by the laws of the State of North Carolina. Exclusive venue for any action, whether at law or in equity, shall be in a court of competent jurisdiction in Craven County, North Carolina.

**5.8 Public Purpose; Fair Market Value:** The Parties agree that the Library's provided services under this Agreement is a valuable service that provides a public benefit for the citizens of the Town. The Parties further agree that the fair market value of said library services is equivalent to the Town's provision of space for the Library in the Town's former Public Works Building. It is the express intent of the Parties that this Agreement

IN TESTIMONY WHEREOF, the Parties hereto have duly executed this Agreement in duplicate originals, a copy of which is retained by each of the Parties, the day and year first above written.



**TOWN OF RIVER BEND**

(Town Seal)

By: *John R. Kirkland* (SEAL)  
John R. Kirkland, Mayor

ATTEST:

*Kristie Nobles*  
Kristie Nobles, Town Clerk

**RED CABOOSE COMMUNITY LIBRARY, LLC**

By: *Linda C. Klopf* (SEAL)

Printed: *Linda C. Klopf*

Title: *Chairman Red Caboose  
Community Library*

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

*Mandy Gilbert*  
Mandy Gilbert, Finance Officer  
Town of River Bend

Date: *5/30/2024*



NORTH CAROLINA

LIBRARY SPACE LEASE AGREEMENT

CRAVEN COUNTY

THIS AGREEMENT is entered into as of the 15<sup>th</sup> day of June, 2024, by and between Town of River Bend (hereinafter "Town") and Red Caboose Community Library, a North Carolina non-profit corporation, (hereinafter "Library") upon the terms and conditions set forth below.

**WITNESSETH:**

WHEREAS, on August 10, 2023, the Town and Library entered into an agreement for the Town to pay Library for the provision of general library services, as authorized by N.C. Gen. Stat. 153A-263; and,

WHEREAS, the Town now has space available in its former Public Works Building, located at 115 Wildwood Drive, River Bend, North Carolina, to house the Library's operations in furtherance of the Town and Library's agreement to render general library services; and

WHEREAS, the Town wishes to now lease space within its former Public Works Building to the Library, and Library wishes to accept said space for its provision of general library services pursuant to the Parties prior agreement.

NOW, THEREFORE, BE IT RESOLVED that for valuable consideration, the sufficiency of which is expressly acknowledged by the Parties, the Parties agree to the following lease agreement's terms:

## ARTICLE 1

### Definitions

Certain terms having specific definitions are used in this Agreement, and these terms and definitions, unless the context clearly indicates to the contrary, are as set forth in this Article. The defined terms appearing in this Article are set forth in the exact capitalized form as they appear between the quotation marks. When the same term is used in this Agreement with the meaning as assigned herein, it shall appear in the identical capitalized form. Otherwise, the terms shall be considered in the context of the sentence in which it appears.

- 1.1. **“Agreement”** means and refers to this Library Space Lease Agreement.
- 1.2. **“Building”** means and refers to the physical building located at 115 Wildwood Drive, River Bend, North Carolina known as the Town’s former Public Works Building .
- 1.3. **“Common Areas”** means and refers to those areas designated as such in this Lease.
- 1.4. **“Effective Date”** means and refers to the 1<sup>st</sup> day of June, 2024.
- 1.5. **“Leased Premises”** means and refers to a portion of the Building as depicted on Exhibit A.
- 1.6. **“Lessee”** means and refers to Red Caboose Community Library, a North Carolina non-profit corporation.
- 1.7. **“Lessor”** means and refers to The Town of River Bend, a county government and body politic and corporate of the State of North Carolina.

## ARTICLE 2

### Premises

2.1 **Leased Premises.** Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the Leased Premises described on Exhibit A and incorporated herein by reference.

2.2 **Common Areas.** Lessee shall have the right to the use, in common with the Lessors, all of the Common Areas located in the building comprising the Leased Premises and on the land, including but not limited to, the following:

- (a) **Building Common Area.** Any common access ways, vending/break areas, lobbies not included in Leased Premises, entrances, and any passageways thereto, and the common pipes, ducts, conduits, wires and appurtenant equipment serving the Leased Premises;
- (b) **Land Common Area.** Any common walkways, sidewalks, parking spaces and driveways necessary for access to the Leased Premises and parking areas; and

- (c) Parking. Any common parking areas. Lessor represents that, to the best of its knowledge, the parking area is in compliance with all zoning statutes, regulations and ordinances, without variance, applicable to the Lessor, the building or the land and pertaining to parking.

Lessee's use of the Common Areas is subject to reasonable rules and regulation imposed equally by Lessor from time to time and to Lessor's right to make necessary or appropriate physical changes from time to time in the Common Areas, provided that Lessor shall give Lessee at least thirty (30) days prior written notice of any new or changed rule or regulation imposed upon the use of the Common Areas, or of any such physical changes, and such rights reserved to Lessor shall be exercised in a manner that minimizes interference with Lessee's use and occupancy of the Leased Premises and use and enjoyment of the Common Areas. Except for changes, if any, required by law from time to time, no changes in the Common Areas shall materially adversely affect Lessee's parking rights or Lessee's access to or use and enjoyment of the Leased Premises.

### ARTICLE 3

#### Term

3.1 Commencement of Term. The initial term of this lease shall commence on , June 1st 2024 and shall terminate on the 31th day of May, 2025. The term of this Lease Agreement can be renewed for subsequent one-year terms upon consent of both Parties on the same terms provided in this Lease Agreement.

3.2 Termination. During the initial term or any subsequently renewed term of this Lease Agreement, either party, with or without cause, may terminate this Lease Agreement upon sixty (60) days' written notice to the other party. If either party gives notice of termination, said notice will not be considered a breach of this Lease Agreement, and said notice will relieve the other party from any future performance under this Lease Agreement. Upon written notice of termination, Lessee's right of possession of the Leased Premises will terminate sixty (60) days from the date of the notice of termination, and Lessee shall deliver the Leased Premises to the Lessor on or before sixty (60) days from the date of the notice of termination.

### ARTICLE 4

#### Rent

Commencing on the Effective Date and during each year of the term of this Lease, Lessee shall be obligated to pay the annual rent for the Leased Premises. The annual rent shall be payable on the first day of each year prior to the start of new annual term. Rent shall be in the amount of One Dollar (\$1.00) per annum.

## ARTICLE 5

### Leasehold Improvements

**5.1 Improvements Constructed by Lessee.** If any work is to be performed in connection with Tenant improvements on the Premises by Lessee or Lessee's contractor:

(a) Such work shall proceed upon (i) Lessor's express approval of the improvements, (ii) Lessor's written approval of Lessee's contractor, (iii) delivery to Lessor of certificates of insurance prior to commencement of work in the Leased Premises indicating that Lessee's contractor carries public liability and property damage insurance under a comprehensive liability insurance policy covering bodily injury in the amounts of One Million Dollars (\$1,000,000) per person and One Million Dollars (\$1,000,000) per occurrence with not less than Two Million Dollars (\$2,000,000) in aggregate or combined single limit coverage and covering property damage in the amount of not less than One Million Dollars (\$1,000,000), and (iv) Lessor's written approval of plans and specifications for such work.

(b) All work shall be done in conformity with a valid building permit when required, a copy of which shall be furnished to Lessor before such work is commenced, and in any case, all such work shall be performed in a good and workmanlike manner and in compliance with all requirements of applicable governmental authorities and of the insurers of the Building. Notwithstanding any failure by Lessor to object to any such work, Lessor shall have no responsibility for Lessee's failure to meet all applicable regulations.

(c) All work by Lessee or Lessee's contractor shall be scheduled through Lessor or Lessor's designee.

(d) Lessee or Lessee's contractor shall arrange for necessary utility and other services with Lessor and shall pay such reasonable charges for such services as may be charged by Lessor.

(e) Lessee's entry to the premises for any purpose, including without limitation, inspection or performance of Lessee's construction by Lessee's agents, prior to the Lease commencement date shall be subject to all the terms and conditions of the Lease except the payment of Rent. Lessee's entry shall mean entry by Lessee, its officers, contractors, licensees, agents, servants, employees, guests, invitees, or visitors.

(f) Lessee shall promptly reimburse Lessor upon demand for any extra expense incurred by the Lessor by reason of faulty work done by Lessee or its contractor, or by reason of any delays caused by such work, or by reason of inadequate clean-up.

(g) Lessee shall indemnify and hold Lessor harmless from any loss, cost or expense, including attorneys' fees and costs, incurred by Lessor as a result of any defects in design, materials or workmanship resulting from Lessee's alterations, additions or improvements to the Leased Premises.

**5.2 Ownership of Improvements.** All alterations, additions, improvements and fixtures, including without limitation cabinetry, floor coverings, lighting fixtures, ducts, controls, heating or cooling, which may be made or installed by either of the parties hereto upon the Premises and which in any manner are attached to the floors, walls or ceilings, are the property of Lessor when so installed, excepting those trade fixtures of Lessee, and shall remain upon and be surrendered with the Premises as a part thereof, without disturbance, molestation or injury. Lessee shall not make any changes or alterations, structural or otherwise, to the Premises without Lessor's prior written consent. Lessee shall remove its trade fixtures at the conclusion of this Lease and shall repair any damage to the Premises caused by such removal. During the term of this Lease, the Lessee shall not remove or damage the above described improvements and fixtures without the written consent of the Lessor.

## ARTICLE 6

### Use and Compliance with Laws

Lessee certifies that it shall use the Leased Premises as a space for the operation of general library services, and all activities incident thereto, and for no other purposes whatsoever without the written consent of Lessor. Lessee shall not use or permit the Premises to be used in a manner offensive or objectionable to the Lessor or other occupants of the Building, or interfere in any way with other Lessees or those having business therein.

## ARTICLE 7

### Buildings, Services, Utilities, Maintenance, and Repairs

**7.1 Services and Utilities.** Lessee shall have access to the Leased Premises as stated in Exhibit A during Building business hours as established by Lessor. Lessee shall be responsible for any and all utilities used in the Leased Premises, including but not limited to full electricity, heating, gas (if applicable), ventilating and air conditioning and all other utilities and Building services necessary for the comfortable use and occupancy of the Leased Premises and the Building Common Areas. During hours that are not Building business hours, the Lessor may restrict the utilities described in the immediately preceding sentence. Except as otherwise expressly provided herein, Lessor shall not be liable for, and Lessee shall not be entitled to, any reduction or abatement of Rent on account of any failure on the part of Lessor to deliver the services and utilities provided in this Lease.

### **7.2 Maintenance, Repair and Replacement.**

(a) **Lessor Responsibilities.** All equipment, including but not limited to heating, air conditioning, electric, water and plumbing equipment and facilities in the Premises, but excluding Lessee's trade equipment or other Lessee-installed equipment, shall be maintained by Lessor. Lessee is prohibited from performing any maintenance or repairs to any of the aforesaid equipment and from hiring any contractors or persons to repair the same without the prior written approval of Lessor except in the case of emergency. Lessor

shall not be required to make any such repairs occasioned by an act or negligence of Lessee, its agents, employees, invitees, or licensees, except to the extent that Lessor is reimbursed therefore under any policy of insurance permitting waiver of subrogation in advance of loss.

(b) Lessee Responsibilities. Lessee will be responsible for the following: (i) Lessee shall maintain the Premises in a good, neat and clean condition, including but not limited to all doors, door frames, windows and tenant improvements, and shall advise Lessor to replace all burned out light bulbs and fluorescent tubes as needed. Lessee shall comply with all requirements of law, ordinance, health officer, fire marshal or building inspector regarding its use of the Premises. Lessee shall permit no waste, damage, or injury to the Premises and shall, at its own cost and expense, replace any plate or window glass which may become broken in the Premises as a result of Lessee's actions. At the expiration of the tenancy created hereunder, Lessee shall surrender the Premises in good condition, reasonable wear and tear, loss by fire or other unavoidable casualty excepted, and shall repair any damage caused by removal of any fixtures which it is permitted hereunder to remove and shall remove all property from the Premises except that property owned by Lessor, leaving the Premises in a clean, neat condition. (ii) Lessee shall keep the Premises free and clean from rubbish and trash at all times; shall provide routine maintenance for the Premises; and shall store all trash and garbage within the Premises, or in receptacles specified by the Lessor. (iii) Lessee shall, in all matters, act in compliance and conformity with all Federal, State, and local laws and regulations and in conformity with generally accepted health and safety standards. Any and all hazardous medical wastes materials and other materials and matter commonly used in the health care industry shall be generated, dealt with, handled, stored, and disposed of by Lessee at Lessee sole cost and expense in conformity with said Federal, State, and local laws and regulations and in conformity with generally accepted health and safety standards, and shall not be disposed of in any respect in any area of the property.

**7.3 Inspection of Premises and Access**. Lessor, at reasonable times with the consent of Lessee (excepting emergencies, as to which no consent shall be required), which consent shall not be unreasonably withheld, may enter the Leased Premises to complete improvements undertaken by Lessor on the Leased Premises or Building, to inspect, clean, maintain or repair the same, and for other reasonable purposes. Lessor shall give Lessee at least twenty four (24) hours notice prior to any entry into the Leased Premises (excepting emergencies, as to which such notice, if any, as is reasonable under the circumstances shall be given, and Lessor's entry shall be solely for the purpose of taking necessary actions to remedy and/or repair the emergency situation), and in no event shall Lessor unreasonably interfere with access to or use of the Leased Premises or Parking Area by Lessee, its agents, employees or invitees.

## ARTICLE 8

### Fixtures & Alternations

**8.1 Fixtures.** Lessee may install any trade fixtures, equipment, furnishings, furniture and other fixtures or removable personal property in the Leased Premises, provided, that the same are installed and removed without permanent or structural damage to the Building. All such property shall remain Lessee's property and shall be removed by Lessee upon expiration or termination of this Lease.

**8.2 Alterations.** Lessee may make non-structural alterations, additions or changes in or to the Leased Premises with prior notification to Lessor, provided that the same are approved by Lessor. Lessor may require Lessee to remove them upon expiration or termination of this Lease, at Lessee's expense and without damage to the Leased Premises. Lessee shall not make alterations, additions or changes to the Leased Premises affecting the structure of the Building without Lessor's prior written consent. Lessee may elect to select its own contractor to perform any such work, subject to compliance with all of the provisions of this Lease.

**8.3 Mechanic's Liens.** No person shall be entitled to any lien upon the Leased Premises or the Land, in whole or in part, or any interest or estate in any such property, by reason of any work, labor, services or material claimed to have been performed or furnished to or for Lessee, or otherwise on account of any act or failure to act on the part of Lessee, and Lessee shall neither cause nor permit the filing of any such lien. If any such lien claim or notice shall be filed, Lessee shall cause the same to be released or provide other satisfactory security to Lessor with respect to the same (which may be in the form of a bond, title insurance endorsement or other assurance reasonably satisfactory to Lessor) within sixty (60) days; and if not so released or secured, Lessor, at its option, may pay up to the full amount of such lien claim to cause its release, and such amount, together with interest thereon from the date of payment at a rate of 1.0% per month, shall be deemed due and payable by Lessee immediately. Nothing in this Lease shall be deemed or construed to constitute consent to or request to any party for the performance of any labor or services or the furnishing of any materials for the improvement, alteration or repairing of the Leased Premises; nor as giving Lessee the right or authority to contract for, authorize or permit the performance of any labor or services or the furnishing of any material that would permit the attaching of a valid mechanic's lien.

## ARTICLE 9

### Assignment and Subletting

Lessee shall not assign, mortgage, encumber or otherwise transfer this Lease or its interests hereunder, in whole or in part, or sublet the Leased Premises in whole or in part, without the prior written consent of Lessor which will not be unreasonably withheld. An assignment shall be deemed to have taken place, thus requiring the Lessor's consent, if the Lessee experiences a change in control. In the event Lessor consents to any such transaction, Lessee shall remain fully liable to perform all the obligations of Lessee under this Lease, including but not limited to payment of Rent.

## ARTICLE 10

### Liability, Insurance, and Indemnification

**10.1 Lessee's Property and Fixtures.** Lessee assumes the risk of damage to any furniture, equipment, machinery, goods, supplies or fixtures that are or remain the property of Lessee or as to which Lessee retains the right of removal from the Leased Premises.

**10.2 Lessee's Public Liability Insurance.** Lessee shall, at its own cost and expense, keep and maintain in full force during the Term, a policy or policies of comprehensive public liability insurance, insuring Lessee's activities in or about the Leased Premises, the Building, and Common Areas against loss, damage or liability for personal injury or death of any person or loss or damages to property occurring in, upon or about the Leased Premises, the Building, and Common Areas in the amounts of not less than One Million Dollars (\$1,000,000) per person and not less than One Million Dollars (\$1,000,000) per occurrence, and covering property damage in the amount of not less than One Million Dollars (\$1,000,000), with not less than Two Million Dollars (\$2,000,000) in aggregate or combined single limit coverage. Lessor shall be named as additional insureds under each such policy of liability insurance maintained by Lessee with respect to this Lease. Any requirement under this Agreement for the Lessee to obtain insurance shall not be deemed a waiver on behalf of the Lessor for any governmental immunity Lessor is entitled to for any claim in tort liability under North Carolina law, including but not limited to the waiver provisions of N.C. Gen. Stat. § 160A-485 or any amendments to that section.

**10.3 Indemnification of Lessor.** Lessee shall indemnify and hold harmless Lessor, and its officers, principals, directors, members, partners, equity owners, shareholders, employees, agents, servants, subtenants, concessionaires, licensees, contractors and invitees (i) from and against any and all liability, penalties, losses, damages, costs and expenses, demands, causes of action, claims or judgments arising from or growing out of any injury to any person or persons or any damage to any property as a result of any occurrence during the Term occasioned in any way as a result of the negligence caused by the action or inaction of Lessee or Lessee's officers, principals, directors, members, partners, equity owners, shareholders, employees, agents, servants, subtenants, concessionaires, licensees, contractors or invitees occurring in or on the Leased



Premises and Common Areas, or arising out of Lessee's use, occupation or operation of the Leased Premises and Common Areas, during the Term, and (ii) from and against all legal costs and charges, including attorneys' fees, incurred in connection with any such matter and the defense of any action arising out of the same which may accrue or be placed thereon by reason of any act or omission of Lessee, and to protect against such liability Lessor shall maintain during the Term its commercial public liability insurance with the Lessor included and an additional insured on such insurance policy which shall cover this indemnification in the amounts of not less than One Million Dollars (\$1,000,000) per person and not less than One Million Dollars (\$1,000,000) per occurrence, and covering property damage in the amount of not less than One Million Dollars (\$1,000,000), with not less than Two Million Dollars (\$2,000,000) in aggregate or combined single limit coverage.

**10.4 Waiver of Subrogation.** Any policy or policies of fire, extended coverage, all-risk or similar casualty insurance, which either party obtains in connection with the Building or Leased Premises, or Lessee's personal property therein, shall include a clause or endorsement denying the insurer any rights of subrogation against the other party to the extent rights have been waived by the insured prior to the occurrence of injury or loss. Lessor and Lessee waive any rights of recovery against the other for damage or loss due to hazards covered by insurance containing such a waiver of subrogation clause or endorsement to the extent of the damage or loss covered thereby. Notwithstanding anything to the contrary contained in this Lease, neither party shall be deemed to have released or waived any claim against the other for damages to property within the deductible amount of such party's insurance policy.

**10.5 Insurance Certificates.** Lessee shall furnish to Lessor a certificate of insurance issued by the insurance carrier of each policy of insurance which is required to be carried by Lessee pursuant hereto. Said certificate(s) shall expressly provide that such policies shall not be cancelable or subject to reduction of coverage or otherwise be subject to modification except after thirty (30) days' prior written notice to the parties named as insureds or to which any such certificate has been issued.

**10.6 Lessee's Insurance.** Notwithstanding anything to the contrary contained herein, Lessee may, at its option, satisfy any or all of its obligations to insure with (a) a so-called "blanket" policy or policies of insurance, including the applicable coverages as described above with respect to the Leased Premises, as well as coverage of other premises and properties of Lessee, or in which Lessee has some interest, or (b) an excess or umbrella liability policy or policies of insurance, now or hereafter carried and maintained by Lessee; provided, however, that Lessor and any additional party named pursuant to the terms of this Lease shall be named as additional insureds thereunder as their respective interests may appear, and provided that the coverage afforded Lessor and any such additional insureds shall not be reduced or diminished by reason of the use of any such blanket or umbrella policy or policies and that all the requirements set forth in this Lease are otherwise satisfied.

**10.7 Lessee's Contents Insurance.** Lessee shall, at its sole cost and expense, obtain and maintain throughout the Term of this Lease, on a full replacement cost basis, "special form" insurance covering all of Lessee's Property located on or within the Premises, and Lessor shall have no interest in any proceeds of such policy.

## ARTICLE 11

### Damages & Destruction

**11.1 Floodplain.** Parties expressly acknowledge that they are aware the Premises are located in a 100-year floodplain and has, on prior occasion, flooded. Accordingly, the Premises may still be susceptible to flooding, and Lessor shall not be liable for any damage to Lessee's Property caused by flooding. Additionally, it is expressly agreed upon that Lessor shall not be required to obtain any type of insurance that would cover said damage, and any such warranties, expressed or implied, related to the protection of the Premises from flood damage are expressly disclaimed. Any insurance obtained by the Lessor that may cover damage caused by flood waters shall only inure to the benefit of the Lessor, and Lessee has no interest in said insurance or any claim or payment made therein. Lessee's insurance coverage required by Section 10.7 of this Agreement shall cover damage caused by floodwaters.

**11.2 Lessor's Repairs.** If either the Leased Premises or Building is damaged or destroyed to the extent that Lessor reasonably determines that it cannot, with reasonable diligence, be fully repaired or restored by Lessor within one hundred eighty (180) days after the date of such damage or destruction, either Lessor or Lessee may terminate this Lease. Lessor shall notify Lessee of any such determination in writing, within thirty (30) days after the date of such damage or destruction. If Lessor so determines that the Building can be fully repaired or restored within the one hundred eighty (180) day period, or if Lessor so determines to the contrary but neither party terminates this Lease, then this Lease shall remain in full force and effect and Lessor shall, to the extent insurance proceeds are not required to be applied to indebtedness on the Building or land, diligently repair or rebuild the Leased Premises and/or Building to return such improvements to the condition in which it/they existed immediately prior to such damage or destruction, as soon as possible and within the maximum period of one hundred eighty (180) days, if applicable

## Article 12

### Default

**12.1 Events of Default.** Each of the following shall constitute an “Event of Default” on the part of Lessee:

- (a) Payment. Failure to pay any installment of Rent or other monies when due and payable under this Lease, if such failure continues for a period of thirty (30) days after written notice of such failure from Lessor to Lessee;
- (b) Performance. Except as otherwise set forth below, failure of Lessee to perform any of Lessee’s non-payment obligations or covenants under this Lease and/or the Parties’ Amended and Restated Library Services Agreement;
- (c) Assignment. A general assignment by Lessee for the benefit of creditors.
- (d) Bankruptcy. The filing of a voluntary petition by Lessee seeking the rehabilitation, liquidation or reorganization of Lessee under any law relating to bankruptcy, insolvency or other relief of debtors, or the filing of an involuntary petition by any of Lessee’s creditors seeking any such relief, if not dismissed or otherwise removed within ninety (90) days;
- (e) Receivership. The appointment of a receiver or other custodian to take possession of substantially all of Lessee’s assets or of this leasehold, if not dismissed or otherwise removed within ninety (90) days;
- (f) Dissolution. Entry of a court decree or order directing the winding up or liquidation of Lessee or of substantially all of its assets, if not reversed or otherwise removed within ninety (90) days; or any action by Lessee toward the dissolution or winding up of its affairs; or
- (g) Attachment. Attachment, execution or other judicial seizure of substantially all of Lessee’s assets or this leasehold, if not dismissed or otherwise removed within ninety (90) days.

**12.2 No Waiver.** Each right provided to a party under this Lease shall be cumulative and shall be in addition to every other right or remedy existing at law or in equity or by statute or otherwise. The exercise or beginning of the exercise by a party of any one or more of the rights or remedies provided for in this Lease, or now or hereafter existing at law or in equity or by statute or otherwise, shall not constitute a waiver of any other right or remedy provided for in this Lease or now or hereafter existing at law in equity or by statute or otherwise. No failure by a party to insist upon the strict performance of any term hereof or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial payment by a party during the continuance of any such breach, shall constitute a waiver of any such breach or of any such term. The waiver by one party of the performance of any covenant, condition or promise shall not invalidate this Lease nor shall it be considered a waiver by such party of any other covenant,

condition or promise hereunder. The waiver by any party of the time for performing any act shall not constitute a waiver of the time for performing any other act or an identical act required to be performed at a later time.

## ARTICLE 13

### Rights Reserved by Lessor

13.1 Lessor shall have the following rights, exercisable without notice and without liability to Lessee for damage or injury to property, person or business and without affecting an eviction or disturbance of Lessee's use or possession or giving rise to any claim for offset or abatement of rent:

- (a) To change the name or street address of the Building;
- (b) To install and maintain signs on the exterior and interior of the Building;
- (c) To have keys to the Leased Premises;
- (d) To grant to anyone the exclusive right to conduct any business or render any service in the Building;
- (e) To enter the Leased Premises to make inspections, alterations or additions in or to the Leased Premises or the Building or to exhibit the Leased Premises to prospective tenants, purchasers or others, at reasonable hours; and at any time in the event of an emergency, and to perform any acts related to the safety, protection, preservation, reletting, sale or improvement of the Leased Premises or the Building;
- (f) To approve the weight, size and location of safes and other heavy equipment and articles in and about the Leased Premises and the Building and to require all such items to be moved in and out of the Building and Leased Premises only at such times and in such manner as Lessor shall direct and in all events at Lessee's sole risk and responsibility;
- (g) To approve the installation of any equipment, devices, machinery, mechanical equipment, electronic equipment or air conditioning equipment involving excessive utility consumption inconsistent with the operation of a typical medical office. In the event Lessor does provide written approval for the installation of equipment that requires electrical service or any other utility service and/or air conditioning in excess of normal requirements.
- (h) At any time, to decorate and to make at its own expense, repairs, alterations, additions and improvements, structural or otherwise, in or to the Building or part thereof, and any adjacent building, land, street or alley, and during such operations to take into and through the Leased Premises or any part of the Building all material required and to close or temporarily suspend operation of entrances, doors, corridors, elevators or other facilities.

(i) To enter and make any lawful use of the portions not leased by Lessee as depicted on Exhibit A.

## ARTICLE 14

### Miscellaneous

**14.1 Quiet Possession.** If Lessee shall perform all of the covenants and obligations herein provided to be performed by lessee, Lessee shall at all times during the Term have the peaceable and quiet enjoyment of possession of the Leased Premises without any manner of hindrance from Lessor or any persons lawfully claiming under Lessor.

**14.2 Notices.** Any notice required or permitted to be given or served by either party to this Lease shall be given in writing, and shall be deemed given on the earliest of (a) the date three (3) business days after being deposited in the United States mail, certified or registered, postage prepaid, (b) when actually delivered, if delivered personally or by courier, or (c) next business day if sent by a reputable overnight courier, or (d) when actually received, if transmitted in writing as follows:

LESSOR: Town of River Bend  
C/o Town Manager  
45 Shoreline Drive  
River Bend, N.C. 28562

LESSEE: Red Caboose Community Library  
*Linda C. Klopff*  
103 Randomwood Lane  
New Bern, N.C. 28562

**14.3 Parties.** This Lease and all of the terms and provisions hereof shall inure to the benefit of and be binding upon Lessor and Lessee, and their respective heirs, successors, assigns and legal representatives.

**14.4 Attorneys' Fees.** In any action or proceeding which Lessor or Lessee may be required to prosecute to enforce its respective rights hereunder, the unsuccessful party therein agrees to pay all costs incurred by the prevailing party therein, including reasonable attorneys' fees, to be fixed by the court, and said costs and attorneys' fees shall be made a part of the judgment in said action.

**14.5 Captions.** The captions appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections or articles of this Lease nor in any way affect this Lease.

**14.6 Severability.** If any provision of this Lease shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Lease shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

**14.7 Applicable Law.** This Lease, and the rights and obligations of the parties hereto, shall be construed and enforced in accordance with the internal laws of the State of North Carolina.

**14.8 Entire Agreement.** This Lease sets forth all covenants, promises, agreements, conditions and understandings between Lessor and Lessee concerning the Leased Premises, Building and Common Areas, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between Lessor and Lessee other than as are herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Lease shall be binding upon Lessor or Lessee unless reduced to writing and signed by Lessor and Lessee.

**14.9 Construction.** The Language used in this Lease shall be deemed to be the language shown by the parties to express their mutual intent, and no rule of construction shall be applied against any party.

IN WITNESS WHEREOF, the parties hereto have executed this Lease the day and year first above written.

TOWN OF RIVER BEND (LESSOR)

By: *John B. Kirkland*  
Printed: John B. Kirkland  
Its: Mayor

ATTEST:  
By: *Kristie J. Nobles*  
Printed: Kristie J. Nobles

This instrument has been  
preaudited as required by the  
Local Government Budget and  
Fiscal Control Act.  
Mandy Gilbert  
FINANCE OFFICER 5/30/24

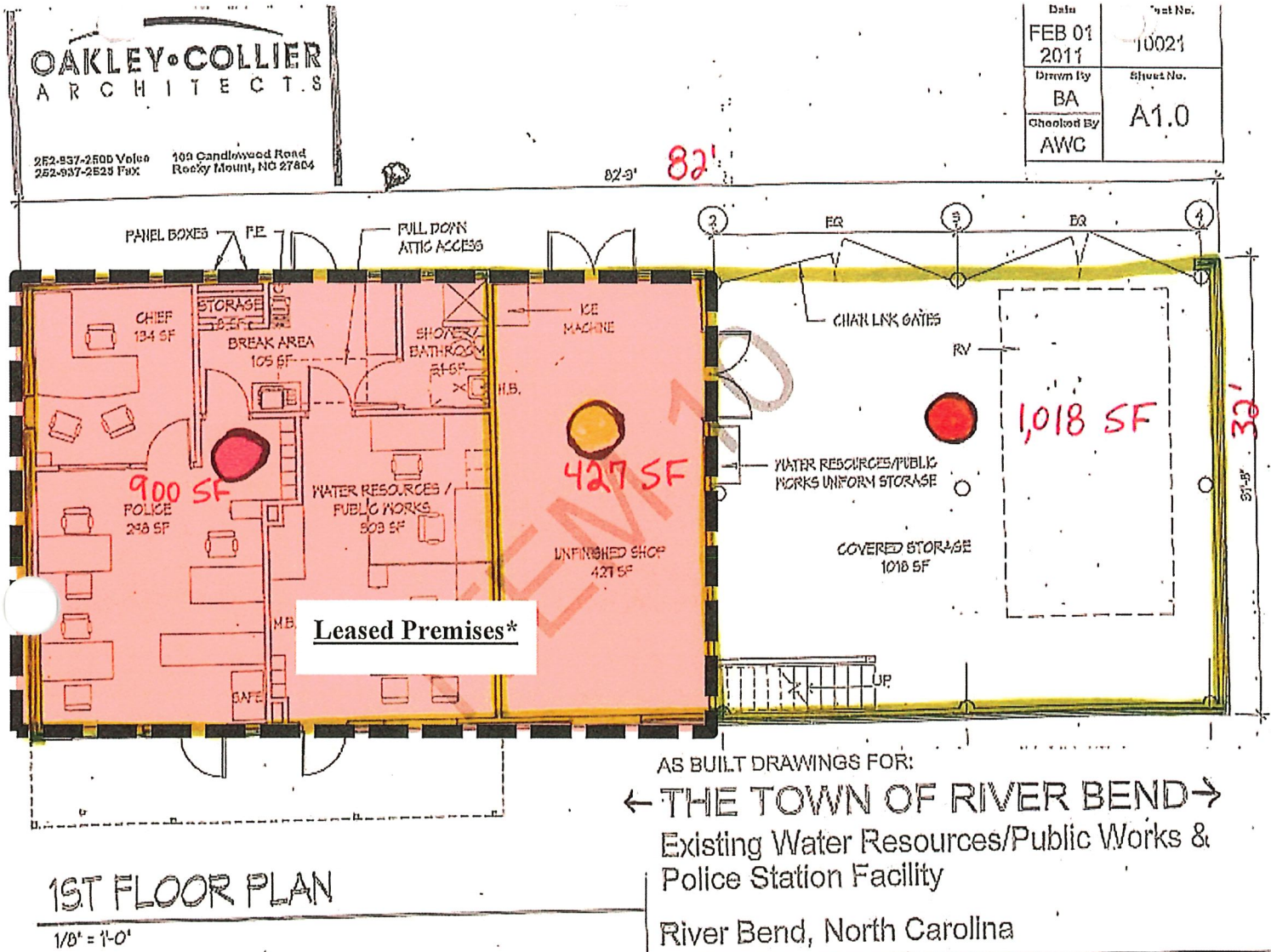
RED CABOOSE COMMUNITY LIBRARY (LESSEE)

By: *Linda C. Klopff*  
Printed: Linda C. Klopff  
Its: Chairman Red Caboose  
Community Library



**Exhibit A**

Leased Premises



\*Note: The Leased Premises are only the portions outlined and highlighted in red herein depicted.

